

ST 00-0126-GIL 06/30/2000 MANUFACTURING MACHINERY AND EQUIPMENT

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

June 30, 2000

Dear Xxxxx:

This letter is in response to your letter dated April 11, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Attached is a copy of our letter & documentation from our customer.

As we discussed this morning, please see that your legal department gets this and responds to us in writing whether our customer is entitled to any or all (ST-1 & ST556) taxes paid for the purchases made pursuant to our letter.

Thank you so much for your help!!

In your letter you request a ruling on whether your client may receive an exemption from taxation. From the information you enclosed, it appears that your client is requesting the manufacturing machinery and equipment exemption.

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See the enclosed copy of 86 Ill. Adm. Code 130.330. The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining that changes some existing material or materials into a material with a different form, use, or name. These changes must result from the process in question and be substantial and significant. The manufacturing machinery and equipment exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

Except under specific circumstances, such as ready-mix trucks, motor vehicles generally do not qualify under the manufacturing machinery and equipment exemption. Further, asphalt paving, excavating and hauling activities are generally not considered to be manufacturing. Instead, these activities may be either the performance of a service or a construction contracting situation. See 86 Ill . Adm. Code 140.101, 130.1940 and 130.2075. In either case, construction contractors and servicemen owe Use Tax on the cost price of items of tangible personal property they use to perform their construction contract or service. For example, a serviceman who performs excavating services owes Use Tax to his supplier on the excavator he purchases to help him perform his service. If such servicemen or construction contractors do not pay their Use Tax liability to their suppliers, they must remit it directly to the Department.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.